THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 5013 of 2006

O r d e r:

Assailing the proceedings dated 31.12.2005, issued by the 2nd respondent seeking to recover an amount of Rs.60,000/- from the terminal benefits of the petitioner alleging shortage of tools.

The learned counsel for the petitioner submits that the petitioner while working as Station Manager with the respondents-APSRTC at Shadnagar was transferred to Mahboobnagar. While so, on the ground that some tools were found short at the time of handing over charge to his successor in 2003, he was issued show cause notice dated 03.03.2005, to which the petitioner submitted his explanation. The learned counsel submits that when the 2nd respondent without conducting enquiry, issued proceedings dated 22.07.2005, seeking to recover an amount of Rs.65,893/- for the shortage of the tools, he filed writ petition in W.P. No. 16905 of 2005, and this Court by order dated 02.08.2005, set aside the said order and left it open to the 3rd respondent to appoint an Enquiry Officer and conduct enquiry, if he so chooses. In pursuance of the said order, the learned counsel for the petitioner submits that the respondents conducted an enquiry mechanically on 26.12.2005, and without examining any witnesses, issued show cause notice dated 28.12.2005, followed by final order dated 31.12.2005, seeking to recover an amount of Rs.60,080.55 ps. from the petitioner, which is illegal and arbitrary.

On the other hand, the learned Standing Counsel for the respondents-APSRTC denied the contention of the petitioner that no

enquiry was conducted and no witness was examined. He submitted that pursuant to the orders of this Court in W.P. No. 16905 of 2006, dated 02.08.1995, the respondent appointed an Enquiry Officer, to enquire into the allegations made against the petitioner, and based on the enquiry report, a show cause notice was issued, and thereafter, the impugned order, seeking to recover the amount mentioned therein towards shortage of tools, was issued and no exception can be taken thereto.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC and perused the enquiry report as well as the statements of the witnesses, examined during the course of enquiry.

The contention of the petitioner that the 2nd respondent issued the impugned order seeking to recover the amount mentioned therein towards shortage of tools, without conducting any enquiry, cannot be accepted. The petitioner earlier assailed the recovery order by filing writ petition in W.P. No. 16905 of 2005, and the said writ petition was disposed of granting liberty to the respondents to appoint Enquiry Officer for conducting enquiry, if they so choose. Pursuant to the said order, as can be seen from the record produced, the respondents, appointed an Enquiry Officer was appointed, to enquire into the allegations made against the petitioner.

The following charge was framed against the petitioner:

For having not handed over the tools and plants worth of Rs.65,893-90 while handing over as per the MTD 419/A on 13.12.2004, which constitutes misconduct under Reg 28(ix)(a) of APSRTC Employees Conduct Regulations, 1963.

The Enquiry officer having conducted enquiry, submitted his report, a perusal of which would reveal that he had conducted the domestic enquiry on 29.11.2005, 06.12.2005, 13.12.2005 and 14.12.2005 and recorded the statements of Sri M.A. Salam,

Deputy Superintendent, Sri A. Jaffar, Security Guard, Sri. A. Selvaraj, Deputy Superintendent, Sri. S.A. Rahman, Audit Inspector as also of the petitioner. The enquiry report further reveals, that a charge sheet was also issued to the petitioner as far back as on 17.12.2004. The Enquiry Officer, apart from examining the balance return of the tools and plants in custody of the petitioner for the year ending 31.03.2004-2005 also examined the statement of differences in physical verification of T & P items during the audit period, which was signed by the petitioner and the officers, whose statements were recorded above. The petitioner, who participated in the enquiry proceedings, cross-examined all the witnesses of the management. The copies of the depositions are produced before the Court along with the enquiry report. The Enquiry Officer, based on the depositions and the material before him, came to the conclusion that to the extent of the tools mentioned therein, namely 20 in number, the petitioner was responsible for safeguard, and that there was some irregularity on the part of the petitioner in rectifying the shortages, and accordingly, submitted the report holding that the charge leveled against the petitioner is proved. Based on the said report of the Enquiry Officer, the 2nd respondent issued show cause notice, and thereafter, issued the impugned final order, seeking to recover the value of the tools found short.

From what has been stated, it becomes clear that before seeking to recover the amount, in terms of the impugned order, the respondents conducted a detailed enquiry, and the petitioner having participated in the enquiry and having cross-examined all the witnesses of the management, cannot be allowed to contend that the respondents conducted the enquiry in a mechanical manner without examining any witnesses, and that the enquiry conducted is no

enquiry in the eye of law. Since the impugned order passed by the 2nd respondent is preceded by a show cause notice and detailed enquiry, no interference is warranted therewith.

The writ petition is devoid of merit, and the same is accordingly dismissed.

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N.V. RAMANA, J.

Dated: 19th December, 2006.
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